

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

**MICHAEL STONE and VANESSA STONE,)
Plaintiffs,) Case No. _____
v.) Formerly CV-2017-900439.00
NATIONSTAR MORTGAGE, LLC,) In the Circuit Court of
Defendant.) Etowah County**

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a) and (b), Defendant Nationstar Mortgage, LLC (“Nationstar”) submits its Notice of Removal of the proceeding entitled *Michael Stone and Vanessa Stone v. Nationstar Mortgage, LLC*, designated 31-CV-2017-900439.00, pending in the Circuit Court for Etowah County, Alabama,¹ to the United States District Court for the Northern District of Alabama, Middle Division. As grounds, Nationstar states as follows:

Commencement and History of the Case

On or about May 25, 2017, a Complaint in the case entitled *Michael Stone and Vanessa Stone v. Nationstar Mortgage, LLC*, designated 31-CV-

¹Nationstar specifically reserves any and all applicable defenses pursuant to Rule 12 of the Federal Rules of Civil Procedure.

2017-900439.00, was filed and is now pending in the Circuit Court for Etowah County, Alabama. A copy of the Complaint is attached hereto within Exhibit A.² In the Complaint, Plaintiffs Michael Stone and Vanessa Stone (collectively, “Plaintiffs”) claim that as a “result of Defendant’s negligence and wantonness, plaintiffs have suffered . . . severe mental and emotional distress in the amount of \$500,000.” (Ex. A, ¶ 22.) The Complaint also claims that plaintiffs are entitled to punitive damages and request that the foreclosure be set aside. (Ex. A, at 3.)

Jurisdictional Statement

This Court has jurisdiction of this action pursuant to 28 U.S.C. § 1332. Plaintiffs are diverse in citizenship from Nationstar, the amount in controversy exceeds \$75,000, exclusive of interest and costs, and Nationstar is not a citizen of the State of Alabama.

Citizenship of the Parties

Plaintiffs are citizens of the State of Alabama. (See Ex. A, ¶ 1.) Nationstar is a foreign limited liability company and, therefore, a citizen of all states of which its members are citizens. *See Rolling Greens MHP, LP v. Comcast SCH Holdings LLC*, 374 F.3d 1020, 1021 (11th Cir. 2004) (“[L]ike a limited partnership, a limited liability company is a citizen of any state of

² Exhibit A contains all pleadings filed in the Circuit Court.

which a member of the company is a citizen.”). Nationstar has two members: (1) Nationstar Sub1 LLC (“Sub1”) and (2) Nationstar Sub2 LLC (“Sub2”). Both Sub1 and Sub2 are Delaware limited liability companies. Nationstar has no other members.

The sole member of Sub1 and Sub2 is Nationstar Mortgage Holdings Inc. (“NSM Holdings”). Sub1 and Sub2 have no other members. NSM Holdings is a Delaware corporation with its principal place of business in Coppell, Texas. Therefore, NSM Holdings is a citizen of Delaware and Texas. *See* 28 U.S.C. § 1332(c) (providing that “a corporation shall be deemed to be a citizen of every State . . . by which it has been incorporated and of the State . . . where it has its principal place of business . . .”). Sub1 and Sub2 are thus citizens of Delaware and Texas, because their citizenships are determined by the citizenship of NSM Holdings, their sole member. *See Rolling Greens MHP, LP*, 374 F.3d at 1021. Lastly, Nationstar is a citizen of Delaware and Texas because its citizenship is determined by the citizenship of Sub1 and Sub2. *See id.*

Accordingly, diversity of citizenship is satisfied for purposes of this Court’s jurisdiction of this proceeding pursuant to 28 U.S.C. § 1332, as no named defendant is a citizen of the State of Alabama. *See* 28 U.S.C. §§ 1332, 1441 (a), (b).

Amount in Controversy

Section 1446(b) addresses when an action is removable, “setting forth the preconditions for removal in two types of cases: (1) those removable on the basis of an initial pleading; and (2) those that later become removable on the basis of ‘a copy of an amended pleading, motion, order or other paper.’ [28 U.S.C.] § 1446(b).” *Williams v. Wal-Mart Stores, Inc.*, 534 F. Supp. 2d 1239, 1243 (M.D. Ala. 2008) (quoting *Lowery v. Ala. Power Co.*, 483 F.3d 1184, 1212 (11th Cir. 2007)). Under the first type of case, “a case may be removed on the face of the complaint if the plaintiff has alleged facts sufficient to establish the jurisdictional requirements.” *Id.* (quoting *Lowery*, 483 F.3d at 1213 n.63).

Here, Plaintiffs specifically allege damages of at least \$500,000: “As a result of Defendant’s negligence and wantonness, plaintiffs have suffered the loss of their home, a lawsuit for ejectment, attorney fees and severe mental and emotional distress in the amount of \$500,000.” (Ex. A, Complaint, ¶ 22.) Additionally, Plaintiffs claim they are “entitled to punitive damages.” (Id., ¶ 23.) Plaintiffs’ Complaint clearly shows that the amount in controversy is greater than \$75,000. Removal is therefore proper.

Timeliness of Removal

Nationstar was served with Plaintiff's Complaint on June 1, 2017. Thus, thirty days have not expired since Nationstar was able to first ascertain that the action was removable. Removal is therefore proper in accordance with 28 U.S.C. § 1446(b). In accordance with 28 U.S.C. § 1446, copies of all process and papers filed in this action are attached to this Notice of Removal as Exhibit A.

Removal to Northern District of Alabama, Middle Division

Pursuant to 28 U.S.C. § 1441(a), this action is being removed to this Court, which embraces the place where the action is pending in state court.

Attachment of State Court Pleadings and Records

Pursuant to 28 U.S.C. § 1446(a), clear and legible copies of all process, pleadings, motions, orders, proceedings, and other papers filed in the Circuit Court of Etowah County, Alabama, and served on Nationstar in this action are attached as Exhibit A.

Notice to State Court

Contemporaneously with the filing of this notice of removal in this Court, and in accordance with 28 U.S.C. § 1446(d), written notice of removal is being filed with the clerk of the Circuit Court of Etowah County,

Alabama, and is being served on counsel for Plaintiffs. A copy of same is attached hereto as Exhibit B.

No admission of fact, law, or liability is intended by this notice of removal, and all defenses, motions, and pleas are expressly reserved.

Conclusion

In conclusion, removal of this action is proper and timely for the foregoing reasons:

- a. Plaintiffs Michael Stone and Vanessa Stone are citizens of Alabama, are diverse in citizenship from Nationstar, which is not a citizen of Alabama;
- b. the amount in controversy exceeds \$75,000, exclusive of interest and costs; and
- c. this Notice of Removal is timely filed.

WHEREFORE, PREMISES CONSIDERED, Nationstar, is entitled to have this cause removed from the Circuit Court of Etowah County, Alabama, to the United States District Court for the Northern District of Alabama, Middle Division.

Respectfully submitted this the 3rd day of July, 2017.

/s/ G. Lane Knight

One of the Attorneys for Defendant
Nationstar Mortgage, LLC

OF COUNSEL:

Gregory C. Cook (ASB-1088-O55G)
E-mail: gcook@balch.com
BALCH & BINGHAM LLP
Post Office Box 306
Birmingham, AL 35201-0306
Telephone: (205) 251-8100
Facsimile: (205) 226-8799

G. Lane Knight (ASB-6748-I72K)
E-mail: lknight@balch.com
Jacob C. Harper IV (ASB-3600-U70K)
E-mail: jharper@balch.com
BALCH & BINGHAM LLP
Post Office Box 78
Montgomery, AL 36101-0078
Telephone: (334) 834-6500
Facsimile: (334) 269-3115

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and service will be perfected upon any CM/ECF participants electronically and/or I have mailed by United States Postal Service a copy of the foregoing document to any non-CM/ECF participants this 3rd day of July, 2017:

Myron K. Allenstein
Rose Marie Allenstein
Allenstein & Allenstein, LLC
141 South 9th Street
Gadsden, Alabama 35901
myron@allenstein.com
rose@allenstein.com

Attorneys for Plaintiff

/s/ G. Lane Knight
Of Counsel